Adat and Globalization: Living Apart Together

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Introduction

In November 2001, the People's Consultative Assembly of Indonesia issued decree IX on Agrarian Reform and Natural Resources Management. Although the overall emphasis of the decree is a call to rationalize natural resources management, including the legal and regulatory aspects, the decree also signaled an important milestone in the decades long struggle to resolve tenurial issues over these resources. A struggle which was born when with the Basic Land (Agrarian) Law of 1960 and the Basic Forestry Law of 1967 Indonesia declared all land and natural resources under state control.

While these national laws in principle recognize customary or *adat* rights over land, the state exerted its right of disposal by freely conferring use rights to large investors without regard to existing rights of local and indigenous communities. For years, the government appropriated land for projects such as dams, industrial plantations and forest estates without significant opposition. Then in 1980 a threshold was reached and increasingly peasants started to resist often violently. The plea of the disposed brought the involvement of students and non-governmental organizations who in turn brought land issues to public attention (Juliantara, 1995).

Adat communities, especially those living in resource rich areas have been among the most disadvantaged groups with regard to recognition of rights as even their existence has in some cases been denied. The law, while recognizing tenurial rights, considers them in a narrow sense as communal use rights. It had been expected that the national law and practices would over time erode *adat* and that local communities would become integrated politically, economically as well as socially in the nation-state of the unitary republic of Indonesia. *Adat* however persisted and indeed has proven more resilient than ever.

Common property management is almost always linked to customary (*adat*) institutions. *Adat,* however, is more than institutions regulating tenure of natural resources, but comprises a social system structuring all aspects of life. However, in the past drive for modernization, customary or traditional rules, regulations and the related lifestyle were regarded as backwards, inefficient and an obstacle for development.

The 1990's saw the growth on national *adat* movements demanding self-governance and self-determination. NGOs often act as their mouthpiece and over time demands have increased, and in some cases even sovereignty of *adat* is demanded. But what does sovereignty of *adat* mean to the *adat* communities? Do *adat* communities themselves want to return to *adat*? Is there still an *adat* to return to? An *adat* able to take on self-governance and rational manage-

ment of common property? In additon, can *adat* law exist besides national or even international law, where all have to be equal and equally treated?

This paper is an attempt to provide some answers. A brief overview on the possible origin of *adat* is presented, followed by a description of two ways in which *adat* continues to play a role in *adat* communities. Although I talk about *adat* in general my focus will be on that part of *adat* concerned with tenure and rights over land as this lies at the heart of *adat* movements today. The last part of this paper is a discussion on the possible implications to the potential role of *adat* in a decentralized Indonesia. Three main assumptions form the core of the discussion: *adat* is more than land tenure; *adat* exists together and intersects with other systems; and *adat* is used today both at the local and the national level as an element in the struggle for political and economic power.

Adat: A Way of Life

What is *adat*? In the idealistic view of the *adat* movements, *adat* is a way of life, a social system structuring all aspects of life. *Adat* can thus be seen as a social structure defined as "a social, durable, layered pattern of cognitive and normative systems that are at once material and ideal, objective and subjective, embodied in artifacts and embedded in behavior, passes about in interaction, internalized in personalities and externalized in institutions" (Hays 1994 quoting from Berger and Luckman, Durkheim, Geertz, Parsons and Wutnow). *Adat* refers to cultural beliefs, rights and responsibilities, customary law and courts, customary practices and self-governance institutions (Alcorn, 2001).

Adat is dynamic, fluid and changes over time. Over the course of history the many social groups of Indonesia developed their own localized *adat*. Although location specific no one large group in Indonesia is distinct from other groups with regard to all features of their *adat*. Instead social and cultural variations appear to be interdigitated and form crisscross patterns of distinctiveness (Drake, 1989). In some areas *adat* rules are detailed and sometimes written in ways showing characteristics of 'law' such as a high degree of predictability, application and adherence. In other societies *adat* is unwritten and exhibits itself in patterns of traditional ritual and kinship relations rather than prescriptive rules and maxims (Fitzpatrick, 1997)

As a national concept *adat* can be seen as a creation of the Dutch. It was Van Vollenhoven who first used the terms '*adat*' and *adat* law to define custom and customary law and completed the first systematic description of Indonesian *adat* law in nineteen 'law areas' (Sonius, 1981). Although in time, there have been many criticisms on his way of defining *adat*, there has never been an alternative system designed. In fact, *adat* movements of today refer to these 19 law areas as proof that *adat* communities exist, have always existed and have rights. However *adat* developed, it cannot be denied that it is recognized as existing today.

Acknowledging the existence of *adat* and *adat* rights over land (Van Vollenhoven, 1919), the Dutch established a system of legal dualism, one for western inhabitants and one for natives (Colchester 2001, Burns, 1999). During the period following independence, the national government imposed positive laws and regulations thereby curtailed the powers of *adat* institutions and laws. The consecutive process of national integration involved strengthening a centralized administration and the transformation from ethnic identities towards a national identity. Despite the many constricting laws at national level, at the local level people adhered to their customary rules and through practice *adat* survived (Colchester, 2001; Moeliono 2000), especially with regard to the resource tenure systems.

Does *Adat* Exist?

Case 1: *Adat* in Manggarai

Manggarai is a district covering the western part of the island of Flores in eastern Indonesia. It is not important in the context of today, having neither valuable resources nor sufficiently fertile land to allow economically profitable large plantations. People live mainly from some wetland rice, mostly swidden and the cultivation of perennial crops such as coffee. Survival still depends to a large degree on access to land.

When Manggarai people talk about *adat* they refer to it in several levels. The speak of the good old times when it was a kingdom and the king had the highest authority within the *adat* structure, being final arbiter and judge in conflicts (Lawang, 1998). The Manggarai kingdom, however, was a Dutch colonial invention, and existed only from 1930 to 1948, the reign of its one and only king.

The second level of Manggarai *adat* is concerned with linkages between clans and families, the unity of people at the most basic level and a third level is concerned with land and rights over land which in in turn based on kinship relationships.

The Manggarai land *adat* developed from the property regimes of clans in a shifting cultivation system. These clans, consisting of the descendants of a common paternal ancestor migrated slowly under a long rotation system of shifting cultivation (Lawang, 1998, 1997). Clans would split or sometimes form associations with other clans but generally remained isolated in scattered one-clan villages where the whole clan lived in one large round house (Coolhaas 1985; Bekkum, 1940; Lawang, 1989). The basis of subsistence was land, and land tenure was the basis for social organization. In the ideal version of *adat* today, land is not recognized as property. Rather people belong to the land, are the 'children of the land'. Each clan, however, controls land within their territory and allocates right of use to clan members.

Adat and Land Tenure

The land *adat* is formulated in the saying "the drums inside, the fields outside". The drum or *gendang* is the symbol of authority as well as the symbol of the rights on land and of social, religious and economic unity of the people (Coolhaas, 1985, Nooteboom, 1940). Land owned by the clan was organized in round fields called *lingko*. Each clan owned several *lingko* which were cultivated collectively in a shifting cultivation system monitored by the leader. The allocation of shares within a *lingko* was done through a special ritual while the size of shares was based on need. A single young men would get a share sufficient to support himself while a father with five half grown children will get a larger share in order to support the family (Lawang, 1998; Moeliono, 2000). It is for this reason that Manggaraians claim that their land *adat* is the most fair based on the moral economy of need.

Traditionally, leadership was shared among a council consisting of the political leader and the land manager. The Dutch reinforced the creation of permanent settlements and villages, as did the Indonesian government and as a result, *adat* lost its political meaning. In Manggarai, however, land management remained in the hands of *adat*. In fact, like many other places in Indonesia a dual structure of *adat* and government emerged. At the same time with the big round houses, one clan villages have all but disappeared. The *Gendang*, the land controlling institution, changed accordingly. Villages became multi clan units and the *Gendang* became a multi-clan institution. It is thus that the term '*suku*' or clan changed into the use of *Gendang* meaning the community and the term *"tu'a gendang"* replacing the term "lord of the land."

From Common Property to Private Property

The land *adat* structure is based on land being the common property of the community and used in a shifting cultivation system. However, while *lingko* were always clearly common property there have always been individuals who in a spirit of independence cleared small plots of their own. In fact, *lingko* might not be contiguous within a *Gendang* territory and the land in between is often claimed and recognized as individual permanent property. This trend was strengthened by the Dutch as they perceived common property and shifting cultivation to be a wasteful use of resources. They introduced wet rice cultivation and perennial crops, which necessitates a more permanent form of land tenure.

The Basic Agrarian Law (BAL) of 1960 declared rights over land to be either individual property (*hak milik*) or state property. In Manggarai the term *hak milik* was very quickly accepted although people did not seem to be aware of the need to register their property at the provincial office of the National Land Bureau. Despite the formal compliance to the state laws, the customary tenure system was never abandoned completely. The Manggarai people have managed to reconcile the notion of private rights over land and acknowledge the rights of the State within the totality of their land *adat*.

Thus while most people claim permanent individual ownership over their last allocated share in the communal *lingko*, they have maintained the *Gendang* insitution as an informal land office supervising transfers and mediating conflicts. At present less than 10 percent of land remains under communal ownership, most of which in the form of communal ritual fields claimed as property by the immediate family of *Gendang* leaders (Moeliono, 2000).

Land conflicts

Even with a land *adat* still in place, conflicts over land are a daily occurrence. Most of these conflicts are between individuals with regard to trespass or boundaries of fields. Some are due to the fact that a father has failed to distribute the land among his sons before he died. All conflict reflects the increasing importance given to individual rights. By far the majority of these conflicts are solved within the *adat* community without interference of the formal government structure.

When conflicts involve two communities, however, the case is more difficult as *adat* leaders have no authority over other communities. These conflicts are territorial and often have a long history (Lawang, 1998). In the past the king was able to manage these conflicts but today with no *adat* authority higher than the individual *gendang* leaders, conflicts remain unsolved. Lands in conflict remain uncultivated because to do so would invite a new eruption of violence. It is partly to solve this problem that the government has expressed the wish to support *adat* and establish a district level *adat* council (Pos Kupang, 16 September 1998)

Changed Meanings

The new law on regional autonomy is generally seen as providing a space for *Adat* and the acknowledgement of *adat* rights to land as well as to other natural resources. In Manggarai this has been understood as re-instituting *adat* as the main guiding principle to all aspects of life.

Adat, however, is not imposed on the community by its leaders. Rather it is kept alive through people's actions and reproduced in their daily activities. Thus the *gendang* in Manggarai continues to exist because people continue to acknowledge its role and because it was allowed them to incorporate changes in the land tenure.

During the colonial time the loss of political authority had already collapsed and only the allocative power over land was left in the hands of the *adat* leader. When land was gradually

converted to private property this power was also lost. Today the property regime appears to be structured at two levels. Individuals have exerted power to claim land thereby ignoring the *Gendang*'s control. However, for legitimation of claims and land transfers, and in case of conflict they still refer to the *Gendang*. People also still adhere to the custom of an annual thanksgiving ceremony and although mixed with Christian rites, these rituals cannot be held without *adat*.

The *Gendang* has thus maintained itself as guardian of *adat*. It has become an institution of mediation between the spiritual and the living world, between individuals in conflict and often between people and the state where land is concerned. This coincides with the *adat* movement and a time in which Manggarai people were seeking new meanings in the uncertain global world of today. For the Manggarai, *adat* offered a ready means to provide them with a sense of belonging, of unity and of identity. As member of a *Gendang* they belong and have the community's protection. Even today, most people in a Manggarai community belong to one or sometimes to more than one *Gendang* (Moeliono, 2000)

Thus the *Gendang* reclaimed a role as symbol of identity. The physical building, the round house' replaced the round fields as an 'ethnic marker' (Eriksen, 1993) together with the myths of one *adat* and the ideology of the land *adat*. Throughout Manggarai, people have rebuild their *adat* houses and in many parts have re-claimed one *lingko* for ritual purposes.

This construction of local indentity tied to the *Gendang* can be seen as part of the resistance to state domination and integration. By holding on to the *Gendang*, people in the Manggarai retain a certain degree of autonomy over their resources. At the same time it is a resistance against the global pressure of seeing land as a commodity.

At the local level, however, individuals might use the *adat* movement in their competition for power. Descendants of the "lords of the land," supported by remittances from well-to-do relatives living in Jakarta are rebuilding the drum house in its original round form. To have communal ownership, the members of the community are often asked to give a token contribution. With a new house as center of rituals and gatherings, the family signifies their power and will gain a certain respect. In this way they hope to re-establish themselves in the *adat* hierarchy. In the process they are also re-inventing land *adat*.

Common Property Revived?

In Manggarai there was never any large-scale appropriation of land by the state. The region was too poor, its forest not valuable and although there is a large plain in central Manggarai, it is dry and not suitable for plantations. Only the permanent forest estate was claimed by the state and subjected to access and use restrictions in 1937-1940 by the Dutch colonial government. There have been cases where the forestry department has moved boundaries extending beyond the old boundaries but nothing really serious. Despite the presence of an official Land Bureau, land remained largely controlled by people through *adat*. The shift towards individual permanently held ownership occurred gradually over time because of factors such as the adoption of permanent agriculture and cultivation of tree crops, population pressure and changing views on property itself. Common property requires a certain degree of cohesiveness within the community, which is strong when the need for mutual help is strong. The money-based economy of today has changed this social pattern with the result that unity of the community weakened.

The *adat* movements at regional and national level developing over the past two decades, have made their influence felt at the local level as well. In Manggarai there was already a renewed interest in *adat* in Manggarai before reformation and regional autonomy. Although it arose out of the need to find a solution for the frequent conflicts over land, it grew because a

perceived need for structure in life. At the local level, the national and regional *adat* movements have led to a sense of empowerment and some *adat* leaders are trying to regain their old positions through a new division of land, sponsoring *adat* rituals and rebuilding *adat* houses. The *Bupati*, at the beginning of his term stated that he would base his government on *adat*. But will this only be the symbolical aspect or will it include some practical aspects related to land as well? Will the center of *adat* shift further to the house?

The solution to land conflicts is seen in the control of land by *adat*. But will this mean a return to common property or thus it mean that *adat* will be recognized by the state as a land controlling institution? It does not seem likely that people will want to give up their individual rights to land, but on the other hand they appear to hold on to the *gendang* and its symbolic meanings.

Case 2: *Adat* Claims in Malinau

Malinau is a new district, established in 1999. Previously it was part of the district of Bulungan, which itself was formed from the old Bulungan sultanate in northern east Kalimantan. Malinau lies upriver, along the boundary with Sabah and Sarawak and has no direct coastal access. Because of its inaccessibility in the past, this area is still covered by valuable timber in one of the last and richest remnants of dipterocarp forest in East Kalimantan. This case study refers only to the part of the district along the Malinau river which includes 27 villages and some 16000 people. This is the area where the CIFOR-ACM team has been working since 1997 and the story below is based on their work.

A Multi-ethnic Population

The term "Dayak" is an invention of Dutch colonial authorities. It encompasses literally hundreds of local ethnic communities in Kalimantan. Local peoples identify themselves by a name usually associated with their ancestors' original place of origin. The Malinau basin is populated by several distinct "Dayak" groups. Both the Merap and the Punan claim to have been the first and declare to have preferential rights. The Merap claim to have lived in the Malinau area for 13 generations (Anau et al, 2001) and before the Kenyah migrated east in the 1960s were the dominant political force in the upper and middle course of the Malinau river. Their power and wealth originated from the control of bird's nest caves in the area which were traded with petty kingdoms downstream (Sellato, 2001, Rhee, 2001).

Like other Dayak groups the Merap were traditionally swidden cultivators and controlled and exploited forest resources through a patron-client relationship with the Punan. The Punan aided the Merap in warfare against the Kayan and also helped to guard the bird's nest caves owned by the Merap. In return, the Punan, who were semi-nomadic hunter-gatherers the Punan received goods they could not obtain themselves (Anau et al, 2001, Rhee 2001). This group of Punan, referred to as Punan Malinau, were settled by the Merap in the area and therefore were not owners of the territory as opposed to the Punan Tubu group who claim to have arrived before the Merap (Sellato, 2001, Cesard, 2001).

A fourth important group is the Kenyah who started to move into the Malinau in the mid 1960s in search of better land (Anau et al, 2001, Sellato, 2001). Different groups of Kenyah settled in different villages along the Malinau (Sellato, 2001).

Other groups include the Putuk or Lundaye and Abai who moved from upper Mentarang to the village of Setarap in 1909. In 1961 a group of Punan settled in the same area and in 1972 population increased again with the arrival of a group of Kenyah from the upper Pujungan (Anau et al, 2001).

The Tidung, who converted to Islam early on, appears to also play a role in recent problems of overlapping land claims along the Malinau. The Tidung claim preferential rights based on their position as descendants from the kings of Tidung, a petty kingdom encompassing part of lower Malinau (Sellato, 2001), as well as being owners of several of the bird's nest caves. Recently they have started to claim the forested areas around the caves.

Political Change

In 1919, the Dutch military set up a post in Malinau Kota. As in other areas they imposed 'order' by defining *kampung* and ownership of resources, thereby introducing and reinforcing the concept of territory. The Dutch also interfered with the *adat* structure by appointing major *adat* leaders over the community *adat* leaders. With regard to rights, they compiled a list of bird's nest caves and their owners then legitimized by a stamp of the Sultan of Bulungan administration. In this way, the Merap became the legal owners of the bird's nest caves today.

Independence brought new laws and changes among which law no 5, 1979 on village administration. With this law villages had to conform to a national model of '*desa*' where village leaders were accountable to the government rather than to the people. People had to be registered and settled. In Malinau, the government of Bulungan designated settlements as villages even though these places did not fulfill the criteria of '*desa*' as set by law. On the other hand, a number of Punan settlements were never formally registered (Barr et al, 2001). During this period, the government also encouraged the resettlement of small isolated communities from the upper to the lower watersheds. From the 1970s to as late as 1990 there was a continuous influx of people into the Malinau (Anau et al, 2001b; Rhee 2000 resulting in a mix of at least several ethnic groups. A curious aspect is that whole villages moved complete with their administration and remained a separate entity despite settling in another village territory. Thus in the Malinau basin there are several settlements containing more than one village.

Conflict andClaims over Natural Resources

The rise of the new order was accompanied by a heavy emphasis on economic development mainly through large-scale exploitation of the available natural resources. Resources were at the discretion of the central government and formal rights to the use of forest were given to large timber companies. While legally local communities did not have formal rights, de facto *adat* rights were recognized and companies allowed communities a certain freedom. They sometimes negotiated directly with villages to determine where shifting cultivation and small strips of village forests could occur (Barr et al, 2001). This was the situation until the more recent changes since 1997. The formation of the separate district of Malinau and the enactment of the regional autonomy law changed the political, economic and social landscape of Malinau dramatically.

As in Manggarai, people understand regional autonomy to mean that their *adat* rights have been returned. Having for years passively suffered the presence of logging companies exploiting their forests they are now actively declaring ownership over the resources. This has been strengthened by the attitude of district governments who for decades have seen locally raised revenue from natural resources being sent to the central government. 'Now it is our turn to enjoy the benefits from our resources'. As a result, people now freely and sometimes forcefully demand compensation or a share in benefits. These days, it is the companies who are in need of legal protection.

Control over resources has always been a main source of conflict among the people of Malinau. In the past such conflicts were related to the most valuable resources such as bird's nest caves (Sellato 2001). The shift in value originating from global and national events changed values of resources and locations. The recent changes have led to a higher level of conflict

with many outsides joining the competition for the newest most valuable resource i.e. forest itself (Barr et all, 2001).

Along the Malinau one can see a general pattern of claims and conflicts. In the far reaches of the upper Malinau where mostly Punan groups lived, conflict focused on access over forest products. In the central portion of the upper Malinau rich coal deposits being mined gave rise to conflicts about compensation claimed for use of cultivated and fallow fields. In the lower stretches problems focused on access to agricultural lands and historically problematic relationships of mistrust (Anau et al 2001a).

While the source of conflict is over access to resources, it has developed a strong link to claims over territories. Coincidentally, in the period prior to the actual implementation of the regional autonomy law, WWF and CIFOR had started participatory mapping activities to delineate village boundaries and help solve conflicts over natural resources. These have provided tools for making land claims but strengthened a general impression that villages can now formerly claim rights in their territories (Barr et al, 2001).

The Role of Investors

One important issue emerging from the decentralization process has been the ease with which investors can gain access to natural resources. In an effort to attract investments, district governments liberated procedures and provide easy permits. As mentioned earlier, large timber companies were already accustomed to make informal agreements with local communities on the use of land. With decentralization, the role of the investors has become more prominent, as funds are short and district governments are expected to depend on locally generated revenues. To avoid conflicts, which have increasingly become violent, the government is requiring that investors deal directly with the local communities and secure harvesting agreement (Barr et al, 2001). Although stated as a requirement it has not been explicitly mentioned in the new district regulations on forestry exploitation (Patlis et al, 2001). The only legal requirement is a decree by the governor (SK Gubernur KalTim no 20, 2000) on the requirement of timber companies to pay compensation to local people. Although this decree was considered an insult because of the low rate determined and rejected by NGOs active in the *adat* movement, it has been used both by timber companies and communities as a basis for negotiations.

For investors dealing at the district level is much more convenient. District governments demand a set of payments and fees but do not enforce the payment of taxes and the reforestation fund required by the central government. This has created a different climate, investors must now deal with the local communities, usually the *adat* groups as they claim specific lands. The *adat* groups on the other hand see for the first time opportunities to 'get some grains' by having power over exploitation of their area. However, where several *adat* groups have conflicting claims over land, investors are drawn into the situation. In turn, investors then might play one group against the other, going with the one offering the best deal, thereby exacerbating the conflict. The best deal for an investor, however is not always the best deal for the *adat* communities, since investors profit from short time memories and direct needs of the community who only rarely think about long-term benefits and impacts. Globalization forces investors to compete for the highest profit in a free market, thereby sacrificing all moral consideration for the needs and future of local communities. Thus is the tragedy of the free market economy.

Adat and Territories

While *adat* territories often overlap with village territories, this is not always the case. In fact, both kinds of territories have never been actually delineated in the field. Confusion is

added through the ad hoc manner of land zonation whereby the Department of Forestry acted independently of the National Land Bureau. When the Department of Forestry delineated the permanent forest estate in the early 1970s nearly 95 percent of the Malinau was designated state forest land (Anau, 2001a). It is legally unclear whether forest is within village territory or whether villages are within the forest area. A*dat* movements claim that villages existed before the designation of forest, however, it is also true that most existing villages made territorial claims only on areas in actual use.

Compensation demanded, and given, for natural resources (timber and coal) extracted has strengthened the overall concept of territory. Claims are now based on *adat* rights on *tanah adat* ("*adat* lands") or *wilayah adat* ("*adat* regions"). Among people in the villages most interpret *tanah adat* as either traditional lands where a group came from or the land where they currently live (Barr et al, 2001). To legitimize these claims, people make use of history. Throughout Malinau people are now constructing their histories. However, different interpretations of historical events and agreements have not been conducive to solving conflicts (Anau, et al, 2002; Moeliono, 2000).

Constructing history often becomes a contest over time and place (Erb, 1997) as shown by the differing histories of various groups. Using historical claims, for example, descendants of aristocratic Dayak and Sultanate families that once controlled large areas of Malinau have sought to make sweeping claims encompassing several smaller village territories and even overlapping each other. Claims based on historical presence such as these deny the rights of people who arrived in the 1960s and 1970s during the resettlement era, giving up their original lands (Barr, et al 2001). Ethnic groups like the Merap, Tidung, Berusu and some Punan have from the start claimed prior rights to their *wilayah adat* and are trying to persuade others to recognize their rights. Having claims recognized, however, depend to a large degree on political connections and strength of numbers. Punan groups are therefore doubly disadvantaged. Traditionally these groups moved around a lot never defining fixed territories (Barr et al, 2001).

The participatory mapping activities initiated by CIFOR in 1997 developed awareness among villagers on the meaning of boundaries and extend of territories. The ideas of boundaries itself have changed. In the past, boundaries were always laid along natural features, mainly rivers or water divides). Today, some boundaries are forced in straight lines to allow the inclusion of valuable resources (Anau, et al, 2001a, 2001b).

Despite the confusion about the village territories and the term *adat* and its implications, in practice communities, government and even companies are treating registered villages as the most common unit for *adat* claims (Barr et al, 2001).

In Malinau, the government is now preparing a spatial plan for the district. While it is still unclear what this will include, the government has already declared its intention to redefine villages and establish definite village boundaries. Among all the confusion about *adat*, the government is probably going to decree that village territories are *adat* territories. Indeed in a 2001 workshop organized by CIFOR, one important issue was the lack of information on *adat* groups and *adat* territories. Lacking resources to conduct a comprehensive survey and impatient with the sometimes irrational demands of communities the government is probably going to make an arbitrary decision. The government has already declared that there will be only one administrative unit in each village, meaning that the multiple villages in one location will be merged and that territories will be determined based on where people actually live (personal communication, Bupati of Malinau, February 2002). Already, the administrative division of sub-districts has been reviewed with the Malinau basin becoming one subdistrict (Draft District Regulation on the formation of Kecamatan, 2002).

This policy will have significant consequences in Malinau especially if thereby forest boundaries will be delineated as well. In anticipation, CIFOR developed several scenarios imagining different ways of zonation whereby the permanent forest estate is separate from village territories[1]

Adat in Malinau.

As in many other places at the margins of the state, local communities continued to practice their *adat* especially with regard to the use of forest resources. Common rules to obtain rights to forest resources are, among others, to be the first clearing primary forest, to borrow land for one season on the condition of not planting trees and the planting of trees. Additionally, people were free to hunt and gather fallen fruit or wild species throughout their territory. When entering another group's territory however, people are expected to ask permission from the village/*adat* head (Barr et a, 2001), for example, the Kenyah moved to Malinau following the customary rule by requesting land from the Merap chief which was granted in turn for a token payment, in one case a gong (Rhee, 2000).

One general rule in Malinau is respect for individual effort. Clearing forest to start a field or planting trees are the most widely accepted rules for obtaining ownership (Anau et al, 2002). Today this is often used to make claims to even larger areas for their villages or individual families (Barr, et al, 2001).

While using *adat* as a basis for claims, *adat* itself has become a less than clear concept, particularly with regard to common property rules. Rules on private property such as swidden are well defined while resources not individually claimed are more or less open access. Information obtained also showed that explicit regulations usually refer to a normative standard not always practiced (Anau et al, 2002).

Adat in Politics

With the formation of the new Malinau district government, for the first time, major positions were filled by people originating from within the Kabupaten. The Dayak-isation of local government has meant that authority is now rooted in the local politics of more than 18 different ethnic groups. *Adat* gained in importance as people sought alliances and political position through ethnic groups (Anau et al, 2001a) resulting in ethnic based competition for land and power.

The organization of *adat* groups based on the government hierarchy is also an inheritance from the Dutch colonial times. At that time *adat* leaders were co-opted through formal recognition and the payment of honoraria. The Dutch in their need for order, established a hierarchy where local *adat* groups were organized in larger associations led by a *Kepala Adat Besar* (high *adat* leader). In Malinau the *Majelis Kerapatan Besar Tanah-tanah Tidung* was established. Members of this council were the *Raja* Tidung, the Merap leader of Langap and four other chieftains (Sellato, 2001; Cesard, 2001). The *adat* leader of the Merap was appointed high *adat* leader of Malinau in 1940. His position was legitimized through a colonial decree and he remained in this position until his death in 1980.

Today increasingly *adat* groups are starting to reorganize, strengthening existing organizations, or establishing new ones calling on the government for formal recognition. In March of

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[1] In February 2002 the ACM-CIFOR team prepared 4 scenarios which were presented and discussed on several occasions. The 4 scenarios are: All land directly controlled by the district government, village autonomy whereby all land is controlled by the village; division of land between different levels of government; and allocation of land for village forest.

this year the Tidung established their officially recognized 'Lembaga *Adat*'. In April the Punan held a musyawarah. The Punan lembaga *adat* is a split from the earlier organization *Yayasan Adat Punan* from which the major *adat* leaders for the Malinau basin and for East Kalimantan were elected.

The Kenyah having prospered, had started to challenge the political authority of the Merap (Rhee, 2001). As they are better organized, having a lembaga *adat* and a written *adat* law since 1968 (Anau, personal communication) they have become an important power in Malinau. The present *Bupati* is Dayak Kenyah. In response, the Merap reorganized and in 1998 succeeded in filling the empty place of *Kepala Adat Besar Malinau*.

The Lundaye and Tidung groups have also become more politically aggressive, especially in this year. These groups are also working most aggressively to consolidate their claims on land while Punan groups have little representation in the *Kabupaten* government as well as weak historical claims to lands and are always the weaker partner in alliances with other ethnic groups (Anau et al, 2001a)

In Malinau, *adat* is thus used as a means to gain political power. *Adat* groups use the claiming of property to gain legitimacy among its members and thereby consolidate their power base. However, in the process they are also causing resentment, which in turn, strengthens the group identity of others. In this struggle the Punan are the weakest party and as a result now go through a process of identity formation.

The new government in the mean time has to cope with these problems and is trying to keep the balance. While it is no problem attending the inauguration of *adat* leaders of each faction, legitimizing land claims is a different matter. Overlap and conflicting histories have led the government to the conviction that neither *adat* nor history can be used to solve conflicts.

The Cases in Broader Perspective

Geographically both Manggarai and Malinau are located at the periphery of the Indonesian Nation State and neither had been fully integrated. In the course of history both areas have in turn been either vassals or under the influence of other politically more powerful entities. But whereas Manggarai was united as an "independent" kingdom and later became a *Kabupaten*, Malinau had been part of or under influence of the Sultanate of Bulungan and became a sub-district within the *Kabupaten* Bulungan. Only in 1999 did Malinau become a separate district. It now covers about 42.000 square kilometers of which a large part is some of the richest remnants of tropical forest in Indonesia and has a population of about 37.000. Manggarai in comparison covers 7.000 square kilometers with about 1 million people and is poor in natural resources.

The case of Manggarai shows how an *adat* system developed based on a customary common property regime. Internal as well as external forces led to a shift towards private property, as a result the associated *adat* had all but disappeared. The *adat* movement has not succeeded in returning common property but in the process *adat* has regained new importance as a symbol of identity. In Malinau, common property is much more loosely defined. This area is only recently settled and the first clearing of forest conferred rights of use if not ownership on individuals and family. With land freely available there was no need to set rigid territorial boundaries although preferential rights certainly existed. Local autonomy facilitated access to investors and as a result people became aware of the monetary value of their resources. In the race to claim as large a territory as possible, *adat* communities made free use of *adat*. Up to that time, territories were not clearly bounded and only private rights to swidden fields were explicitly recognized. Now, people started to make territorial claims, thereby establishing a

common property regime, controlled by the *adat*/village leaders but with every community members sharing rights.

In Manggarai the separation of land tenure from *adat* has caused the symbol of *adat* to shift from the land to the house. A similar shift has occurred among the Atoni of west Timor, where in order to reorganize and revitalize, *adat* communities felt the need to rebuild their *adat* house (Nubatonis and Kieft, 1999). In Malinau as well, there is an indication that *adat* houses are starting to play an important part as center for rituals and bonding. *Adat* becomes centered on the *adat* house and the house is becoming a symbol of identity.

The rise of *adat*, is as much in resistance against the domination of 'others', as linked to the formation of an identity as basis for claiming resources. Being masyarakat *adat* might be a way to establish corporate identity in dealing with investors and claiming a share in the benefits of exploiting a resource as happened in Malinau.

Identity, of course, is only of concern in relation to 'other' groups and might be constructed in tandem with the construction of the group. The Manggarai people although historically originating from different places have now constructed themselves as Manggarai with a distinctive Manggarai *adat*. This unity was imposed by the formation of a kingdom but quickly accepted as there was a need for both horizontal and vertical linkages not provided for in the very localized *adat*. Similarly, each group in Malinau have identified themselves as being different from the others but have no mechanism to relate to each other's *adat*. In the future, when land rights have been solved this trend need to be reserved and a Malinau identity created with a Malinau *adat*.

National Law versus Customary or *Adat* Law

Before Reformation

The Dutch colonial government encouraged permanent settlements, individual family houses and the establishment of villages (*kampung*) with appointed leaders, not always *adat* leaders. The Indonesian government continued this policy with Law No 5 of 1979 on Village Government, whereby villages throughout Indonesia had to follow a uniform pattern.

During the colonial period, land was regulated through a dual-system law, in which *adat* communities had 'rights of avail'. This was the result of an ongoing discussion on the rights of *adat* communities in the Netherlands, triggered by Van Vollenhoven in 1919 (Sonius, 1981; Burns, 1999) as a result of which the dual-system was established. In Independent Indonesia, this discussion on dual (*adat* and national) law continued but in the end the party for unification won and the country established one positive law framework. With regard to property, the new laws firmly established state control over all resources. As *adat* communities said: Under colonialism Indonesia was colonized but *adat* communities were free, now the country got its freedom but colonized the communities" (quoted in Colchester, 2001).

Decentralization and Law Reforms

The fall of Suharto and the brief flare of reformation resulted in several important events over the years 1997-2001. Within the Ministry of Forestry a Reform Committee drafted a new forest law recognizing *adat* rights. Unfortunately with the change in government at the time (1998-1999) a different draft was filed. However, several programs on community in forestry had over time been established. Although still very bureaucratic and top-down, it does indicate that *adat* has become part of the official discourse. A more practical change was the formation of a 'Zone with Specific Purpose' (*Kawasan dengan Tujuan Istimewa*) which is a step towards recognizing ownership of others on state land (Blomkvist & Djuwadi, 2001).

The reformation movement albeit short lived, and law no 22 of 1999, firmly entrenched autonomy at district level. As a result the political and legal landscape have changed tremendously. *Adat* gained new strength through the second amendment to the constitution stating explicit recognition of the existence of *adat* communities and their rights (article 18B) and respect for cultural identities and rights of traditional communities (article 28I). And in 2001, a new stage in agrarian reform was achieved with Legislative Act No. IX of 2001 of the People's Consultative Assembly on Agrarian Reform and Natural Resource Management. The principal mandate of this act is legal protection, justice and legal security of rights over natural resources.

The last mentioned events occurred at the national level, where NGOs and other organizations tied in to the global internet were quick to pick up new ideas and adapt their programs. Regional autonomy, on the other hand, had direct implications on communities at the local level. Regional autonomy provided a new independence most visible in the release of control over natural resources by the national government. Although it is still debated whether legally forest land, which almost always crosses district boundaries, should be under control of provincial or district government (UU22, 1999), in practice the weakened national government has lost its authority and power and the district government has taken over.

Law No. 22 of 1999 also negated Village Government Law No. 5 of 1979. The definition of villages now includes a sentence recognizing the *adat* origins of communities. In theory, villages have the opportunity to govern according to *adat*.

Can *Adat* Law be Reconciled with National Law?

The old debate on how to integrate *adat* law into state law has appears to be revived, with *adat* communities supported by NGO's demanding their *adat* law to be recognized (DTE 46, 2000). During the later period of colonialism, the existence of *adat* law had been accepted and the courts were giving it serious attention. *Adat* law was used parallel to state law. However the dividing line between custom and law remained un-reconciled. On what grounds could one determine its building character? How could innovations in *adat* law qualify as customary law? How could one ascribe to *adat* law a body of objectives and pre-existing rules if the conciliatory nature of *adat* justice made it constantly necessary for *adat* judges to find or create new laws applicable to individual cases (Sonius, 1981)?

Andi Mallarangeng, one of the architects of the regional autonomy law, thinks that with regional autonomy *adat* law and *adat* governance could become positive law (DTE 46, 2000). Regional autonomy in principle provides space for village autonomy and a return to *adat*. However, people have not yet considered how to fit *adat* into the wider government system. In many cases, the registration and cooptation of *adat* leaders by the Dutch has become part of *adat*. It is thus no wonder that it is expected that *adat* leaders are confirmed and paid by the government. Having been reared within the unitary state, people cannot yet perceive of an *adat* structure independent and parallel to the state (Bourdieu, 1994). On the other side, *adat* communities have always had the ability to absorb new ideas and adjust to new laws and situations (Sonius, 1981). Indeed most *adat* law is already a synthesis between old and new. With regional autonomy, *adat* communities were quick to see, adjust and use new opportunities. Writing down the law as communities are now doing, however, will not answer the question of fit. People who live according to *adat* have no need to define *adat*. In the past the implicit rules that applied were sufficient. With the interdependency of households in the social context of production as well as consumption, rules and regulations pertaining to use of common resources were well obeyed (Devung, 1999). With a changing mode of production

and privatization of resources, these implicit rules changed although the explicit rules remain the same.

Only very few *adat* communities have a written code and even where there are, the code is not applied as written. These laws are mostly written down in the format of modern positive law and do not reflect the actual process of deciding on sanctions for example as is characteristic of *adat* law.

The writing of *adat* law itself has been the topic of debate. Widjayanto feels that having a written *adat* law will provide legal security binding both *adat* communities and the government (Pos Kupang, 16 April 1998). Others argue against codification as this will freeze *adat* and negate the flexibility and adaptability which are its main characteristic (Pos Kupang, 17 April 1998). As well *adat* usually does not consist of detailed rules and regulations but rather comprises the larger framework within which rules are negotiated and adjusted. *Adat* can thus be seen as the overall policy guiding the rule making (Moeliono, 2000).

As the case studies show, *adat* has not always been used in rational harmonious ways and is not always what NGOs think it is. There is for example, also need for a strong system of checks and balances on traditional leaders to ensure that as part of the government system they do not become more answerable to the government hierarchy than they are to indigenous groups they represent (DTE 43, 1999).

The Renaissance of *Adat*

Adat Rights and Proof of Existence

Adat rights are referred to as *hak ulayat* and understood to be common property. Zerner defined *hak ulayat* as "mutual or joint rights of a group of inhabitants occupying a specific piece of land" (Moniaga, 1993). Its main features are access and use rather than ownership and the inalienability of land. (Blomkvist &Djuwadi, 2000). With the basic forestry law of 1967, almost three quarters of land was designated forest land and was controlled by the Department of Forestry.

Laws such as the Basic Agrarian Act, Basic Forestry Law, and *Kepmen* No. 5 of 1999 in principle recognize customary laws but these are bound by various conditions. In order for customary rights the *adat* community must be proven to still exist. But what is an *adat* community? The National Alliance of *Adat* Peoples (AMAN) defines an *adat* community as "A group of people sharing the same descent, having lived in a specific geographical area for generations and having shared ideology, norms and values as well as a territory" (AMAN in DTE 43, 1999). The government wants *adat* communities to show how *adat* law orders life, the existence of a clearly defined *adat* structure, the existence of an *adat* court or judicial system, and having a clearly defined territory. The forestry law adds the condition that they must also be still dependent on forest. While dependence on forest might be easy to show, the existence of *adat* rules, especially those on land tenure are difficult to show as they are articulated in practice and are often 'implicit' rules. Documentation seldom exist, although many groups as been shown for Malinau are in the process of writing down their *adat* and *adat* law.

Proof of existence must be shown through 'research' by a recognized research institute and officially acknowledged through a district regulation (RPP Hutan *Adat*, 1999). The district government has therefore absolute power to allow the existence of *adat* communities.

In reality *adat* communities are more or less tolerated and thereby de facto their existence recognized. Even so, as the government of Indonesia is not able (or willing) to provide legal

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security and as the government itself is in a state of insecurity, the status of *adat* communities and their rights remain is a state of flux.

Communities Redefined

Differentiation among local groups in Indonesia, which later crystallized as '*suku*' (clan, tribe) and are now commonly referred to as *Masyarakat Adat*, must have predated colonialism. Dutch influence, however, must have led to its strengthening. Colonial ethnographers compiled a framework for classifying people according to the different *suku* which is still used today. In fact, many ethnic groups were invented at that time, including the Manggarai and Dayak. But, although the origins of *adat* communities might be questioned, their existence today is taken for granted.

Constrained within the overall structure of a central-government dominated system, where diversity and culture were defined by the state, *adat* communities were only able to express themselves freely through systems of meaning, of how *adat* conveys the meaning of social practices. With the changes brought by the reformation and regional autonomy, local communities have now the opportunity to reassert practical aspects of *adat*.

Faced with perturbations at the national political stage, decentralization and an influx of investors trying to control resources, local groups including *adat* communities are struggling to maintain their identity. In this effort, *adat* communities are confronted with conflicting definitions of rights and claims based on multiple agendas set by internal factions as well as outside parties. There is nothing better, however, to promote unity than a common enemy. For *adat* communities this common enemy was the New Order government threatening their very existence. One force that would be able to bind each and every village member was *adat*. With property separated from *adat*, symbolism of *adat* was used in creating new identities to resist globalization in a sense that they do not want to become part of the world community loosing their roots, culture, values, and rights. With the new order gone, *adat* has become redefined and often used for political purposes and to solidify power at the local level.

Adat Movements

Movement of NGO's advocating environmental issues and human rights have grown into a strong force over the last decade. Merging advocacy for nature with advocacy for people, the movement draws on the strength of interlocking activities from local community or people's organizations, non-governmental organization that works with locals and networks (local and national alliances) that strengthen capacity, improve strategies for action and facilitate communications strength from local *adat* communities at nation as well as international networks (Royo, 2000). Protesting against the domination of the state and the global markets, *adat* has become the rallying point of the *adat* movements supporting reformation.

At the national level, NGO's have realized the need to support each other resulting in the formation of networks and alliances. One such alliance, the National based Alliance of *Adat* Communities (AMAN), has taken on the plight of *adat* communities. It started as a large gathering of Dayak representatives protesting against the conversion of community managed land into an oil palm plantation. Several gatherings and meetings with the local government later, the Alliance of *Adat* communities of West Kalimantan was born. Using this model, several existing networks organized a nationwide meeting of *adat* people. This first congress of *adat* people was a big success and gave birth to AMAN (Royo, 2000; DTE 43, Oct 99). One immediate success was the response by the Minister of Agrarian Affairs who issued Decree no 5, 1999 on guidelines to solve problems of customary common property (Royo, 2000; Colchester 2001).

AMAN promotes a demand for full sovereignty for all *adat* communities. They want rights to land, control over natural resources, respect for custom and identity, self governance through customary institutions and recognition of customary law. These rights are also recognized in international law, yet to be ratified by Indonesia. The amendment to the constitution of 1999, however provides a general endorsement and now the State has to decide how to give expression to these standards in practice (Colchester, 2001).

AMAN is only one of the most recent of several such organizations. Together they have made *adat* communities more visible and even in areas where NGOs are not physically present local *adat* communities have developed a sense of empowerment. An interesting development is also that the larger *adat* communities who have been fully integrated into the nation state of Indonesia are now re-identifying themselves as *adat* community, e.g there is a movement to revive the '*Masyarakat Adat Sunda*' in west Java.

An emerging question is whether these organizations represent political or social movements. Is *adat* merely a vehicle to gain political power as might be the case in Malinau or is there a sincere wish to revitalize *adat* institutions?

Adat in National Politics

As a unitary republic the central government has tried to build a national identity subsuming and overriding all ethnic identities. This national identity was created through a long and ongoing process started by the first president Soekarno and continued by Suharto. It involved the weaving together of three main elements: the ideology of the Indonesian village, a unifying national language and the state ideology of *Pancasila*.

Soekarno was fiercely anti-western and attempted to create an "Eastern Nationalism" and national identity through "regeneration of the national culture adapated to the requirements of progress but retaining its distinctiveness;" (Chatterjee, 1986). Soekarno's nationalism seems to be a model of which Plamenatz writes, "rejection of the alien intruder and dominator who is nevertheless to be imitated and surpassed by his own standards" (quoted in Chatterjee, 1986). In this regard, Suharto followed closely. He continued the process of national integration by strengthening a centralized administration. *Pancasila* became a rigidly interpreted framework mainly used to legitimize the domination of the central government, and implicitly mainly based on Javanese customs. The traditional village concept of mutual help, consultations to reach concensual decisions and emphasis on harmony, unity, control of emotions, status, order, conformity to group norms and expectations and the importance of face saving devices (Drake, 1989; Muskens, 1970), became Government Regulation (PP) No. 5 of 1979, which was in many ways the death of *adat*. However, this did not happen without tension and even now more than 50 years after Independence ethnic and regional differences remain strong. Loyalty to one's own ethnic group and home region is still evident among many Indonesian peoples (MacAndrews, 1986). In fact it has recently been strengthened even more by resentment against the central government and fuelled by the *adat* movements which are advocating a return to *adat*.

As 70 percent of Indonesia's land area was designated forest it is no surprise that most tenurial conflicts occurred with regard to the forest estate. Thus the Department of Forestry has become the main government institution relating to *adat* communities.

In response to the pressure by *adat* communities supported by national as well as international NGOs, the department of forestry made some token efforts to involve local communities in forest activities. Programs of social or community forestry are written in the law but implemented within a rigid bureaucracy framework without really devolving any authority. In 1998, the reformation movement resulted in Government Regulation (PP) No. 62 of 1998,

which gave districts authority over a small section of forest governance such as community or social forests and private forests. A later regulation (PP No. 6 of 1999) gave district government authority to issue exploitation rights of 100 hectares, intended for local communities. In 1999 the new forestry law was promulgated which in principle recognizes the rights of *adat* communities.

The new laws (autonomy and forestry) are not clear at which level the authority over forest governance lays, although de facto the district government has taken over and executed their new found power by issuing permits to exploit forest in their region. At the same time, *adat* communities awakened and started to demand a return of their rights, sometimes with force. As the case of Malinau shows, an emerging problem in many places is that these rights are seldom clear cut as history is forgotten and different *adat* groups have moved in over time.

International Influences

The NGO movements aimed at empowering local communities are very much influenced by international movements on human rights and indigenous peoples. While the government has yet to ratify the international conventions, the NGO community has adopted the values as their own. They are basing their advocacy activities on the ideal constructed view of customary ways of managing natural resources. Community based institutions are being documented and discovered particularly where control over resources is most intensively contested. In the process *adat* is being used 'as a discursive projectile carrying community claims to resources and territories into a hotly contested political-economic arena' (Zerner, 1994)

Adat Communities in a Globalized World: Living Apart Together

How globalized is *adat* and what is the effect of *adat* on globalization? The discussion above shows that this question remains difficult to answer. A*dat* is very localized and has not been seriously considered in the highly modernized and connected society of today. Until recently.

The concept of *adat*, is a deep concept, structuring the life of a more or less homogenous group. *Adat* communities can in effect be read as community groups with special characteristics. However, belonging to a specific *adat* group means not only having a specific identity, but having claims on land and resources as well as rights to govern and judge your own people. In the formerly centralized nation-state of Indonesia, where pluralism in culture was barely acceptable, these wider claims are hard to tolerate. It was exactly these issues which are now the leading demands of *adat* movements. With reformation, views on *adat* has changed.

With regard to the *adat* communities as such, there has never been any doubt that they existed and still exist. The flexible nature of the *adat* has always allowed them to adapt, and they will continue to do so even against the mainstream of modernization and globalization.

Adat has emerged as a unifying concept of opposition to the expropriation and impositions of the New Order in Indonesia (Cochester, 2001; Alcorn, 2000). The growing *adat* movement is also in resistance against the national defined 'culture'. Local people are redefining their own identities and make use of *adat* in the process. At a larger scale this movement can also be seen as a resistance against the way of life imposed by globalization, it is itself part of a global movement to promote new laws and development (Benda-Beckman, 2002). Identifying "them" and "us", serves to make an active stand in times when all values, ideas, wisdom, boundaries, and identities are blurred, and all are forced to take part in the on-going globalization. Even the simple act of buying soap and selling coffee beans is being part of that global network.

Can *Adat* Survive?

As long as people live by *adat*, *adat* exists. *Adat* is practice and is kept alive through people's actions and reproduced in daily life. However, *adat* is also flexible and adaptable and has been adjusted according to need, as well as in response to global and national forces. *Adat* has been used as a political tool to gain power over resources and people. *Adat* has been used as a unifying tool to keep people together and *adat* has been used to give meaning to people's lives.

While in practice people conform or do not conform to *adat*, this in itself is a process of retaining or modifying traditional rules and regulations to meet persisting or changing circumstances and needs of the community (Devung, 1999). As a process it might at some points not be adaptive or efficient or even fair but as a consequence *adat* itself survives.

Indonesia at the moment is in a state of chaos. Rule of law, always somewhat lax now is almost completely ignored. Laws exist but are only enforced when it fits the enforcer. This has lead to wide scale insecurity and inequality whereby very often money is law. In this situation, the existence of *adat* groups has been taken for granted by the state. This might be more a consequence of the limited capacity of the state to control these *adat* groups rather than a conscious decision. Nevertheless, the state profits from their existence as conflicts are usually solved by *adat*. Indeed, in the new autonomy law the existing *adat* institutions have been given a role in conflict resolution and mediation at community level. There have also been recommendations to establish supra-community or even district level institutions such as an *adat* council to handle conflict at these levels (Ruwiastuti, 1994)

In the modern globalized world, however, *adat* is not enough. The very localized characteristic of *adat* works against it. In addition, the layered *adat* regimes formed by historical events, the mixing of *adat* groups through migration, the needs of the state and the need for a state, are not conducive to strengthen *adat*'s role. Arguments have to be defined to be able to defend your group and its very existence, against "the other". "The other" however, due to the on-going connectedness, includes not only the neighbors, the inhabitants of the district or province, but are all the citizens and the government of the state, maybe even the citizens of the world. All have their own agenda's and all want to move ahead, if necessary, using and sometimes abusing all elements which are present in the international, national, provincial and local environment.

Against this stand the international conventions on human rights and indigenous peoples which supports the existence of different peoples and their rights. Diversity is considered necessary to preserve human values which enrich life. As an example, there are people in the west feeling a lack of meaning in their lives who adopt *adat* ways of Asian or Latin American people. They feel that these *adat*s are more natural and value life more.

How Will it Survive?

What does revitalization of *adat* mean? This was the topic of a series of workshops organized collaboratively by AMAN, ICRAF and the Forest Peoples Programme represented by Marcus Colchester. Results showed that *adat* communities are not seeking independence from the state but rather recognition of their existence and rights through legal reform. They want a return to legal pluralism with equal authority for *adat* and state law within traditional areas and clarity how the two interrelate. They want to have the freedom to delineate their own territories and the freedom to govern themselves (Colchester, 2001; DTE 51, 2001).

The state and the national law have the responsibility to protect all citizens equally. In *adat* law this is often not the case, as cases are tried and decisions taken based on the specific situation, based on needs of the individual rather than of the community as a whole. Fairness

and equality as we know it in Western states cannot be applied directly to *adat* groups and their members. Slavery or child labor has been abolished, but poor family members working in households of their (extended) family without pay but basic necessities, can be part of *adat*. This is not only in conflict with the national law but has not been considered in the international treaties on human rights, indigenous peoples and for example labor laws. On the other hand, while *adat* movements are idealizing *adat*, *adat* communities are more pragmatic. They do realize that all *adat* is not good but insist that because of its flexibility *adat* can and should continue to exist.

Adat communities define themselves by characteristics shared by the state: leadership issues, ownership and access to resources including the land area, the members and the rules of their membership, their judicial system including sanctions not necessarily based on equity or equality, their beliefs, traditions and customs and lastly their identity and the symbol of their identity. It has thus been difficult for the state to allow the existence of these communities. However, their existence cannot be denied and their rights of existence should not be denied. The government must accept and recognize *adat* communities and design regulations which allow space for *adat* communities within the framework of the state. *Adat* communities themselves do not dispute their status as citizens and in their worldview there is no problem in co-existence of state and *adat*.

After having been marginalized for centuries, it is only fair that the government now adopts affirmative action with regard to *adat* communities.

Finally, the *adat* which exists today is not the same as in the past nor will it be the same in future. Economic life might mainstream but *adat* will continue to provide a feeling of security and serve as safety net. The cohesiveness of the group in the past was a necessary strategy for survival. In these days of globalization where *adat* communities have become marginalized, poverty, lack of information, digital divide, and external demands has once again made the group a means of survival.

Will Common Property Survive?

Demands for a return of the rights of *adat* communities have often taken the formula of the ideal community based natural resource management. In many cases, NGO's are supporting local and *adat* communities in asserting local autonomy and control over their natural resources. They are also gathering data and information on customary systems which work. As is the case with *adat*, NGO's interested in this issue have formed an alliance for promoting community based forest management (KPSHK) (Moniaga, 2000).

Adat communities, however, develop their own ideas as shown by the case of Krui in Lampung. This community was the first to be given the right to manage their communal resource according to *adat* law and is used as precedent to promote similar rights for other communities. Recently the Krui community expressed the wish for individual rights (Sirait, personal communication). In Manggarai, most people also want individual property although they maintain these individual rights as permanent rights within the *adat* realm. In response the *adat* leaders adjusted *adat* to allow for this. In this way, common property at the community level has been reconciled with individual ownership at the personal level. In a similar way, many of the Kalimantan communities operate. It is in this way that common property might survive.

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